

Before the
FEDERAL COMMUNICATIONS COMMISSION
 Washington, DC 20554

In the Matter of)
)
 1998 Biennial Regulatory Review --)
 Review of International Common Carrier)
 Regulations)

IB Docket No. 98-118
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 FEDERAL COMMUNICATIONS COMMISSION
 OFFICE OF THE SECRETARY

REPLY COMMENTS

MCI Telecommunications Corporation ("MCI") hereby files this Reply in response to the Comments filed in the above-captioned proceeding.¹ The Commission in its *Notice* made a number of proposals to streamline and simplify its international Section 214 application rules. MCI applauds the Commission for taking these important steps to deregulate the international services market. MCI generally supports the Commission's proposals in this proceeding, with the changes suggested by MCI in its Comments and this Reply.

I. BLANKET SECTION 214 AUTHORIZATIONS

In its Comments, MCI supports granting blanket Section 214 authorizations to entities wishing to provide international services that do not have foreign affiliates. MCI, however, opposes the proposals of GTE Services Corporation ("GTE"), Cable & Wireless ("C&W"), and the Competitive Telecommunications Association ("CompTel"), which seek to further extend blanket authority.

¹ 1998 Biennial Regulatory Review -- Review of International Common Carrier Regulations, IB Docket No. 98-118, Notice of Proposed Rulemaking, FCC 98-149 (rel. July 14, 1998) ("Notice").

First, GTE asserts that blanket authorization should be granted where a U.S. carrier's foreign affiliate operates in a WTO member country that has liberalized its telecommunications industry in accordance with its market opening commitments.² MCI opposes GTE's proposal because it unnecessarily would increase burdens on the Commission by requiring the Commission to determine whether specific countries have implemented their WTO commitments.

The Commission should also reject GTE's proposal to extend blanket authority to carriers that serve affiliated routes solely by reselling facilities of an unaffiliated U.S. carrier.³ The Commission should grant blanket authority only in situations where the applicant poses no potential threat to competition in the United States.

MCI also opposes C&W's suggestion that blanket authorization should be extended to affiliated routes where the U.S. carrier can demonstrate that it has an insignificant market share in the foreign country but has not been found non-dominant by the Commission.⁴ The Commission should, at a minimum, make a specific finding that a U.S. carrier's foreign affiliate does not have market power before granting that carrier blanket Section 214 authority. This would provide certainty to the carrier's assertion that its foreign affiliate lacks market power. It

² GTE Comments at 3. GTE appears to suggest that the U.S. carrier would not be subject to blanket 214 authorization in this situation unless its foreign affiliate also offers a settlement rate at benchmark to U.S. carriers.

³ *See Id.*

⁴ C&W Comments at 4.

would also preserve a bright-line test (*i.e.* either the Commission has made a finding or it has not). Such a showing should be easy to make where market share is minimal.

Finally, CompTel urges the Commission to extend blanket authority to situations where a carrier has a foreign affiliate that does not provide international services on the U.S. route.⁵ To the extent that CompTel is suggesting that foreign affiliates that have market power in local or intercity facilities or services but do not provide international services in the foreign market, MCI strongly opposes CompTel's proposal. As the Commission has recognized, a foreign carrier that controls local or intercity facilities or services on the foreign end of a U.S. international route has the ability to leverage that market power to harm competition in the U.S. telecommunications market.⁶

II. STREAMLINED PROCEDURES FOR PROVISION OF SWITCHED SERVICES OVER PRIVATE LINES

In its Comments, MCI supports streamlining the process for approving provision of switched services over private lines to particular countries, but suggests automatic authorization where settlement rates for at least 50 percent of the settled U.S.-billed traffic on the route are at benchmark.⁷ In the alternative, MCI could support the proposal of WorldCom, Inc. ("WorldCom") that the Commission authorize ISR by Public Notice after any party has filed a

⁵ CompTel at 3.

⁶ *See Rules and Policies on Foreign Participation in the U.S. Telecommunications Market*, Report and Order and Order on Reconsideration, 12 FCC Rcd 23,891 (1997), *recon. pending* ("Foreign Participation Order") at ¶ 145.

⁷ MCI Comments at 9.

request on a particular route to a WTO country where settlement rates for at least 50 percent of the settled U.S.-billed traffic on the route are at or below benchmark.⁸

C&W argues, however, that the Commission should authorize ISR for subsets of service, such as virtual private networks and non-telephonic services.⁹ The Commission need not and should not consider this proposal here. It is outside the scope of this proceeding. This is a substantive issue that was not raised in the *Notice*. The Commission's intent is to streamline the approval process for ISR, not to amend its definition of what constitutes ISR pursuant to its Rules.

III. REVISION OF THE FOREIGN AFFILIATION STANDARD

C&W urges the Commission to clarify or revise its definition of "affiliation" for purposes of the benchmark settlement rate condition and application of the ECO standard.¹⁰ MCI opposes this suggestion. The proposal is wholly outside of the scope of this proceeding. The Commission did not seek comment on substantive issues related to the definition of affiliation, and any such amendment should be addressed, if at all, in a separate proceeding.

IV. SECTION 214 AUTHORIZATION FOR WHOLLY-OWNED SUBSIDIARIES

In its Comments, MCI and a number of other parties supported the Commission's proposal to extend Section 214 authority to any wholly-owned subsidiary of the authorized carrier. MCI, WorldCom, Primus Telecommunications, Inc. ("Primus"), GTE, and Iridium also

⁸ See WorldCom Comments at 6.

⁹ C&W Comments at 6-7.

¹⁰ C&W Comments at 10-11.

supported applying this proposal to any subsidiary with the same ultimate ownership as the authorized carrier.

GTE, however, suggests that the Commission further extend this proposal to permit partnerships in which the authorized carrier has a controlling interest to use that carrier's Section 214 authorization.¹¹ The Commission should reject GTE's proposal. The Commission's intent is a narrow one -- to allow wholly-owned entities to use their parent's or a "sister" subsidiary's authorizations. The potential competitive concerns contained in one authorized carrier's application would be nearly identical to those raised by any of its wholly-owned subsidiaries, or any other subsidiaries which are wholly-owned by the same parent. This is not the case where an authorized carrier has only a controlling interest in another carrier. GTE's proposal would therefore expand the concept well beyond the Commission's intent, and confuse an otherwise straightforward rule.

V. AUTHORIZATION FOR NON-U.S. LICENSED SATELLITES

WorldCom urges the Commission to eliminate the requirement that, when applying for Title III authorization to use a non-U.S. satellite, an earth station operator must certify that the satellite is in orbit and operational, and that the international coordination process has been completed.¹² WorldCom maintains that instead, the FCC should publish a list of satellites which meet these requirements. WorldCom also suggests that once a non-U.S. licensed satellite system

¹¹ GTE Comments at 5.

¹² WorldCom Comments at 6-7.

is approved for use by U.S. carriers, it should be placed on a list to allow any other authorized carrier to use that system to those points.

MCI supports WorldCom's proposals. These amendments would eliminate unnecessary redundancies in Title III applications, thereby reducing burdens on earth station operators and the Commission. It will also limit delays that are currently caused by the need to obtain Section 214 authorization even after a specific satellite system has been authorized.

VI. CONCLUSION

MCI applauds the Commission's efforts to simplify and streamline its international Section 214 requirements. As set forth herein, MCI urges the Commission to adopt its proposals with the revisions recommended by MCI in its Comments and these Reply Comments.

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I, Deborah Fairley, do hereby certify that on the 28th day of August, 1998, a true copy of the foregoing Reply Comments was delivered, either by hand or First-Class mail, to the following:

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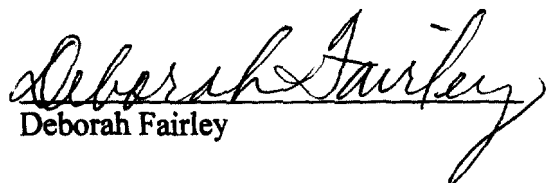
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